

this order if we find that the specified purpose, terms, and conditions have not been adhered to or if the long-term sustainability of double-crested cormorant populations is threatened by the action(s) of that Agency, Tribe, or State Director. The criteria and procedures for suspension, revocation, reconsideration, and appeal are outlined in §§ 13.27 through 13.29 of this subchapter. For the purposes of this section, "issuing officer" means the Regional Director and "permit" means the authority to act under this depredation order. For purposes of § 13.29(e), appeals shall be made to the Director.

(e) *Does this section contain information collection requirements?* Yes, the information collection requirements in this section are approved by the Office of Management and Budget (OMB) under OMB control number 1018-0121. Federal agencies may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

(f) *When does this depredation order expire?* This depredation order will automatically expire on April 30, 2009, unless revoked or extended prior to that date.

[68 FR 58035, Oct. 8, 2003]

**§ 21.49 Control order for resident Canada geese at airports and military airfields.**

(a) *Which Canada geese are covered by this order?* This regulation addresses the control and management of resident Canada geese, as defined in § 21.3.

(b) *What is the control order for resident Canada geese at airports, and what is its purpose?* The airport control order authorizes managers at commercial, public, and private airports (airports) (and their employees or their agents) and military air operation facilities (military airfields) (and their employees or their agents) to establish and implement a control and management program when necessary to resolve or prevent threats to public safety from resident Canada geese. Control and management activities include indirect and/or direct control strategies such as trapping and relocation, nest and egg destruction, gosling and adult trapping

and culling programs, or other lethal and non-lethal control strategies.

(c) *Who may participate in the program?* To be designated as an airport that is authorized to participate in this program, an airport must be part of the National Plan of Integrated Airport Systems and have received Federal grant-in-aid assistance, or a military airfield, meaning an airfield or air station that is under the jurisdiction, custody, or control of the Secretary of a military department. Only airports and military airfields in the lower 48 States and the District of Columbia are eligible to conduct and implement the various resident Canada goose control and management program components.

(d) *What are the restrictions of the control order for resident Canada geese at airports and military airfields?* The airport control order for resident Canada geese is subject to the following restrictions:

(1) Airports and military airfields should use nonlethal goose management tools to the extent they deem appropriate. To minimize lethal take, airports and military airfields should follow this procedure:

(i) Assess the problem to determine its extent or magnitude, its impact on current operations, and the appropriate control method to be used.

(ii) Base control methods on sound biological, environmental, social, and cultural factors.

(iii) Formulate appropriate methods into a control strategy that uses several control techniques rather than relying on a single method.

(iv) Implement all appropriate non-lethal management techniques (such as harassment and habitat modification) in conjunction with take authorized under this order.

(2)(i) Methods of take for the control of resident Canada geese are at the airport's and military airfield's discretion from among the following:

- (A) Egg oiling,
- (B) Egg and nest destruction,
- (C) Shooting,
- (D) Lethal and live traps,
- (E) Nets,
- (F) Registered animal drugs, pesticides, and repellants,
- (G) Cervical dislocation, and
- (H) CO<sub>2</sub> asphyxiation.

**§ 21.49**

**50 CFR Ch. I (10–1–07 Edition)**

(ii) Birds caught live may be euthanized or transported and relocated to another site approved by the State or Tribal wildlife agency, if required.

(iii) All techniques used must be in accordance with other Federal, State, and local laws, and their use must comply with any labeling restrictions.

(iv) Persons using shotguns must use nontoxic shot, as listed in § 20.21(j) of this subchapter.

(v) Persons using egg oiling must use 100 percent corn oil, a substance exempted from regulation by the U.S. Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act.

(3) Airports and military airfields may conduct management and control activities, involving the take of resident Canada geese, under this section between April 1 and September 15. The destruction of resident Canada goose nests and eggs may take place between March 1 and June 30.

(4) Airports and military airfields and their employees and agents may possess, transport, and otherwise dispose of resident Canada geese taken under this section. Disposal of birds taken under this order may be by donation to public museums or public institutions for scientific or educational purposes, processing for human consumption and subsequent distribution free of charge to charitable organizations, or burial or incineration. Airports/military airfields, their employees, and designated agents may not sell, offer for sale, barter, or ship for the purpose of sale or barter any resident Canada geese taken under this section, nor their plumage or eggs. Any specimens needed for scientific purposes as determined by the Regional Director must not be destroyed, and information on birds carrying metal leg bands must be submitted to the Bird Banding Laboratory by means of a toll-free telephone number at 1-800-327-BAND (or 2263).

(5) Resident Canada geese may be taken only within the airport, or the military base on which a military airfield is located, or within a 3-mile radius of the outer boundary of such a facility. Airports and military airfields or their agents must first obtain all

necessary authorizations from landowners for all management activities conducted outside the airport or military airfield's boundaries and be in compliance with all State and local laws and regulations.

(6) Nothing in this section authorizes the killing of resident Canada geese or destruction of their nests and eggs contrary to the laws or regulations of any State or Tribe, and none of the privileges of this section may be exercised unless the airport or military airfield possesses the appropriate State or Tribal authorization or other permits required by the State or Tribe. Moreover, this section does not authorize the killing of any migratory bird species or destruction of their nest or eggs other than resident Canada geese.

(7) Authorized airports and military airfields, and their employees and agents operating under the provisions of this section may not use decoys, calls, or other devices to lure birds within gun range.

(8) Airports and military airfields exercising the privileges granted by this section must submit an annual report summarizing activities, including the date and numbers and location of birds, nests, and eggs taken, by December 31 of each year to the Regional Migratory Bird Permit Office listed in § 2.2 of this subchapter.

(9) Nothing in this section applies to any Federal land without written permission of the Federal agency with jurisdiction.

(10) Airports and military airfields may not undertake any actions under this section if the activities adversely affect other migratory birds or species designated as endangered or threatened under the authority of the Endangered Species Act. Persons operating under this order must immediately report the take of any species protected under the Endangered Species Act to the Service. Further, to protect certain species from being adversely affected by management actions, airports and military airfields must:

(i) Follow the Federal-State Contingency Plan for the whooping crane;

(ii) Conduct no activities within 300 meters of a whooping crane or Mississippi sandhill crane nest;

(iii) Follow all Regional (or National when available) Bald Eagle Nesting Management guidelines for all management activities;

(iv) Contact the Arizona Ecological Services Office (for the Colorado River and Arizona sites) or the Carlsbad Fish and Wildlife Office (for Salton Sea sites) if control activities are proposed in or around occupied habitats (cattail or cattail bulrush marshes) to discuss the proposed activity and ensure that implementation will not adversely affect clapper rails or their habitats; and

(v) In California, any control activities of resident Canada geese in areas used by the following species listed under the Endangered Species Act must be done in coordination with the appropriate local FWS field office and in accordance with standard local operating procedures for avoiding adverse effects to the species or its critical habitat:

(A) *Birds*: Light-footed clapper rail, California clapper rail, Yuma clapper rail, California least tern, southwestern willow flycatcher, least Bell's vireo, western snowy plover, California gnatcatcher.

(B) *Amphibians*: California red-legged frog and California tiger salamander.

(C) *Insects*: Valley elderberry longhorn beetle and delta green ground beetle.

(D) *Crustaceans*: Vernal pool fairy shrimp, conservancy fairy shrimp, longhorn fairy shrimp, vernal pool tadpole shrimp, San Diego fairy shrimp, and Riverside fairy shrimp.

(E) *Plants*: Butte County meadowfoam, large-flowered wooly meadowfoam, Cook's lomatium, Contra Costa goldfields, Hoover's spurge, fleshy owl's clover, Colusa grass, hairy Orcutt grass, Solano grass, Greene's tuctoria, Sacramento Valley Orcutt grass, San Joaquin Valley Orcutt grass, slender Orcutt grass, California Orcutt grass, spreading navarretia, and San Jacinto Valley crownscale.

(e) *Can the control order be suspended?* We reserve the right to suspend or revoke an airport's or military airfield's authority under this control order if we find that the terms and conditions specified in the control order have not been adhered to by that airport or military airfield. Final decisions to revoke

authority will be made by the appropriate Regional Director. The criteria and procedures for suspension, revocation, reconsideration, and appeal are outlined in §§ 13.27 through 13.29 of this subchapter. For the purposes of this section, "issuing officer" means the Regional Director and "permit" means the authority to act under this control order. For purposes of § 13.29(e), appeals must be made to the Director.

(f) *Has the Office of Management and Budget (OMB) approved the information collection requirements of the control order?* OMB has approved the information collection and recordkeeping requirements of the control order under OMB control number 1018-0133. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. You may send comments on the information collection and recordkeeping requirements to the Service's Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 222—ARLSQ, 1849 C Street NW., Washington, DC 20240.

[71 FR 45986, Aug. 10, 2006, as amended at 72 FR 46408, Aug. 20, 2007]

#### § 21.50 Depredation order for resident Canada geese nests and eggs.

(a) *Which Canada geese are covered by this order?* This regulation addresses the control and management of resident Canada geese, as defined in § 21.3.

(b) *What is the depredation order for resident Canada geese nests and eggs, and what is its purpose?* The nest and egg depredation order for resident Canada geese authorizes private landowners and managers of public lands (landowners); homeowners' associations; and village, town, municipality, and county governments (local governments); and the employees or agents of any of these persons or entities to destroy resident Canada goose nests and eggs on property under their jurisdiction when necessary to resolve or prevent injury to people, property, agricultural crops, or other interests.

(c) *Who may participate in the depredation order?* Only landowners, homeowners' associations, and local governments (and their employees or their agents) in the lower 48 States and the